



#6 DAE

PATENT APPLICATION
SERIAL NO.: 09/817,956
ATTORNEY DOCKET NO.: 2931-010557

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group Art Unit 3763 :
In re application of : **INFLATABLE INTRALUMINAL
MOLDING DEVICE**
Biagio RAVO :
Serial No. 09/817,956 :
Filed March 27, 2001 :
Examiner Ann Y Lam :
Pittsburgh, Pennsylvania
February 6, 2003

PETITION TO REVIVE UNDER 37 C.F.R. § 1.137(a)
OR IN THE ALTERNATIVE § 1.137(b)

BOX DAC
Commissioner for Patents
Washington, DC 20231

Sir:

The Applicant hereby submits this Petition to Revive the above-captioned patent application. The entire delay in filing the required reply from the due date for reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(a), was unavoidable, or in the alternative § 1.137(b), was unintentional.

This Petition is accompanied by the fee set forth under 37 C.F.R. § 1.17(l) of \$55.00. No Terminal Disclaimer and fee is required under 37 C.F.R. § 1.137(d), as this utility application was filed after June 8, 1995.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class mail in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231 on February 6, 2003.

02/12/2003 SLUANG1 00000006 09817956
01 FC:2452

Mary Pat Rossi
(Typed/printed name of person mailing paper/s and/or fee/s)
55.00 *Mary Pat Rossi* 2/6/03
Signature of person mailing paper/s and/or fee/s Date

RECEIVED
FEB 13 2003

OFFICE OF PETITIONS

STATEMENTS

UNDER UNAVOIDABLE DELAY § 1.137(a)

The Applicant respectfully requests that the failure to reply to the outstanding Office Action was unavoidable because the Applicant never received the Office Action. During the prosecution of this patent application, there was a time period from which the Applicant stopped receiving correspondence from The Webb Law Firm, including the outstanding Office Action dated February 22, 2002. Neither the Applicant nor The Webb Law Firm was aware of this situation until the Applicant, upon visiting the United States and our office, discovered the error.

The following is a summary of the order of correspondence. The Applicant received correspondence from us with respect to the first Office Action issued on August 15, 2001 and responded accordingly. However, the Applicant never received the outstanding Office Action of February 22, 2002. The Applicant was sent a letter, via facsimile, on May 16, 2002 requesting instructions or authorization to proceed in response to the Office Action from the United States Patent Office. A redacted copy of the first page of this letter is attached herewith without enclosures. This letter also included a request for payment of the Applicant's account balance since we had inexplicably ceased receiving payment from the client. A follow-up letter was sent to the Applicant on July 24, 2002, again addressing the Office Action, as well as the nonpayment of outstanding bills of legal services provided.

The lack of response to the mailings from the client was not indicative of a correspondence error because it appeared, to the undersigned, that the Applicant was not interested in the pursuit of this application because the Applicant was not responding to billing matters or to our request for instructions or authorization to respond to the February 22, 2002 Office Action. Additionally, the Applicant failed to communicate with respect to all outstanding matters in other pending patent applications, as well as to pay outstanding fees for legal services

rendered to date. The Applicant's residency in Italy further complicated the matter of contacting the Applicant. Therefore, from these actions of the Applicant, it appeared to the undersigned that the Applicant he had no desire to continue the pursuit of this or the other pending patent applications. Further, there were no authorization or instructions of how to proceed.

The fact that the Applicant was not receiving correspondence from us was not discovered until his recent visit to the United States and our office. It was during this meeting that the Applicant informed us that he had not received communications from us via facsimile or via postal delivery for the past year. The change of residency resulted from a change of status.

However, the Applicant believed that relevant correspondence would be forwarded to his proper address. The Applicant did not receive any such relevant material from us. Consequently, the Applicant had not received our bills requesting payment or correspondence with respect to this or other pending patent applications. The Applicant has since then provided us with an appropriate revised correspondence address (as well as an e-mail address) to rectify the situation.

We have diligently prepared a response to the outstanding Office Action and Petition upon discovering this error. A Declaration establishing these facts, signed by the Applicant, is attached hereto. These facts are believed to establish the unavoidable delay in responding to the outstanding Office Action.

The attached copy of the Declaration with the Declarant's signature was received by facsimile and may be difficult to read. A copy of the unsigned Declaration is also attached to complete the record and improve legibility. The undersigned hereby asserts that the unsigned version corresponds to the signed version of this Declaration.

UNDER UNINTENTIONAL DELAY § 1.137(b)

In the event that the above circumstance is deemed to not satisfy the requirements for unavoidable abandonment, the Applicant respectfully submits that it was unintentional and requests, in the alternative, the revival of the application for unintentional abandonment.

CONCLUSION


For the reasons set forth herein, it is believed that the Applicant has established diligence in seeking prompt review of the instant application, and that the delay was unavoidable. There are no reasons for the delay in response other than the lack of receipt (i.e., no arguments needed to be prepared; no evidence of secondary consideration or unobviousness needed to be submitted, etc.). The Applicant respectfully requests that this Petition be granted for unavoidable delay, or in the alternative, revival for unintentional abandonment, and the application be allowed to issue.

A check in the amount of \$55.00 is hereby submitted to cover the fee for unavoidable delay. If further fees are necessary, such as granting a Petition for unintentional abandonment, the Commissioner for Patents is hereby authorized to charge any additional fees to Deposit Account No. 23-0650. The Examiner's favorable decision is respectfully requested.

Respectfully submitted,

WEBB ZIESENHEIM LOGSDON
ORKIN & HANSON, P.C.

By


Blynn L. Shideler
Registration No. 35,034
Attorney for Applicant
700 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219-1818
Telephone: (412) 471-8815
Facsimile: (412) 471-4094
E-mail: webblaw@webblaw.com